IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

TUESDAY, THE 16TH OCTOBER 2007 / 24TH ASWINA 1929

WP(C).No. 30538 of 2007(I)

PETITIONERS:

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1. SHYJU.K.P., KRISHNA VIHAR,
   P.O.MURINGERY, KANNUR DISTRICT-670 612.

2. MANOJ.K.V., KOOVERI VAYAL,
   KOOVERI (POST)-670 581, KANNUR.

3. ARUNKUMAR.K.K., VRINDAVAN,
   KILLIYANGAD, MATTANUR COLLEGE,
   KANNUR-670 702.

4. VINOD.C.V., CHIRAKKAL VEETTIL,
   THIMIRI, THIMIRI P.O., CHAPPARAPADAVE VIA,
   KANNUR-670 581.

5. SANTHOSH.M., `SAMUDRA',
   IRIVERY P.O., KANNUR-670 614.

6. VIJAYAN.K.V., KANNOM,
   KIZHAKKE VEETTIL, EZHOM P.O.,
   PAZHAYANGADI VIA, KANNUR-670 334.

BY ADV. SRI.V.PREMCHAND

RESPONDENTS:

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1. THE STATE OF KERALA,
   REPRESENTED BY THE CHIEF SECRETARY,
   SECRETARY, THIRUVANANTHAPURAM.

2. THE SECRETARY, DEPARTMENT OF
   HEALTH AND FAMILY WELFARE,
   GOVERNMENT OF KERALA,
   THIRUVANANTHAPURAM.

3. THE DIRECTOR OF HEALTH SERVICES,
   THIRUVANANTHAPURAM.

4. THE DISTRICT MEDICAL OFFICER,
KANNUR.

5. THE KERALA PUBLIC SERVICE COMMISSION,
REPRESENTED BY THE SECRETARY,
PATTOM, THIRUVANANTHAPURAM.

R1 TO R4 BY GOVERNMENT PLEADER SRI.BEJOY CHANDRAN

R5 BY SRI.ALEXANDER THOMAS- STANDING COUNSEL FOR PSC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 16/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V.GIRI, J.

W.P.(C).No.30538 of 2007 I

Dated this the 16th day of October, 2007.

JUDGMENT

As per Ext.P3 Government Order, the method of appointment prescribed by the Government to the post of Junior Health Inspector in the Health Services Department is as follows:

> " Method of appointment:
>
> 1. By promotion/transfer of technically qualified hands in the Health Services Department.
> 2. In the absence of technically qualified hands for appointment by promotion/transfer, by direct recruitment.
>
> Note: In the absence of candidate with technical qualification for appointment by 1 & 2 viz., promotion/transfer and direct recruitment, department hands with the general educational qualification will be considered subject to the condition that they should undergo multipurpose workers training before appointment."

2. On notification by the Public Service Commission for selection of candidates to be included in the list for appointment by direct recruitment to the post of Junior Health Inspector Grade II, the petitioners

applied and have been selected as such. Their grievance now seems to be that direct recruitment will be resorted to as a method of appointment to the post of Junior Health Inspector Grade II, only in the absence of technically qualified hands in the Health Services Department. They, therefore, contend that since more than one source of recruitment is provided for in the Special Rules, steps should be taken to prescribe a ratio as between the two sources. They challenge Ext.P3 insofar as it does not prescribe a ratio.

3. In my view, even if the challenge, as regards Ext.P3 to the extent to which is challenged, is ultimately accepted by the court, it cannot affect those vacancies which already existed, nor can they prescribe a ratio with retrospective effect. In other words, the petitioners will be entitled to a relief, even if their contentions are accepted, only in relation to vacancies which arise subsequent thereto.

4. In the circumstances, it is more appropriate for the Government to consider the question of prescribing a ratio, in the Special Rules, as pointed out by the petitioners. Representations filed by them, in this behalf, are pending before the Government as Exts.P7 and P8.

After hearing learned counsel for the petitioners and the learned Government Pleader, writ petition is disposed of directing the 2nd respondent to consider Exts.P7 and P8 and take a decision thereon, after hearing a representative of the petitioners, within a period of two months from the date of receipt of a copy of this judgment. The contentions of the petitioners are left open.

Sd/-

(V.GIRI)

JUDGE

sk/

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